

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

LEONORA NUNLEY,)	
)	
Plaintiff,)	
)	
v.)	No. 4:08-CV-1704-TIA
)	
BARNES JEWISH HOSPITAL,)	
)	
Defendant.)	

ORDER AND MEMORANDUM

This matter is before the Court upon receipt of plaintiff's response to this Court's order to show cause as to why this action should not be dismissed as time-barred. Plaintiff states that although her EEOC right-to-sue letter is dated July 31, 2008, she did not receive the letter until six days later, on August 6, 2008. The instant action was filed on November 6, 2008.

Unless a Title VII plaintiff files suit within ninety days of receiving a right-to-sue letter from the EEOC, he or she is foreclosed from bringing suit on the allegations made in the EEOC Charge of Discrimination. 42 U.S.C. § 2000-e5(f)(1). The ninety-day time limit begins to run on the date the plaintiff receives the EEOC notice of right-to-sue. This ninety-day limitations period is strictly construed. Because plaintiff now claims that she received the EEOC right-to-sue letter on August 6, 2008, and this evidence,

to date, is not disputed,¹ the Court will presume at this point that the filing of the instant complaint was timely.

Therefore,

IT IS HEREBY ORDERED that the Clerk shall issue process or cause process to be issued upon the complaint.

Dated this 5th day of June, 2009.

/s/ Terry I. Adelman
UNITED STATES MAGISTRATE JUDGE

¹"When the date on which a right-to-sue letter was actually received is either unknown or disputed, courts have presumed various receipt dates ranging from three to seven days after the letter was mailed." Taylor v. Books A Million, Inc., 296 F.3d 376 (2002). The United States Court of Appeals for the Eighth Circuit has applied a three-to-five-day presumption of receipt. See Brooks v. Ferguson-Florissant School Dist., 113 F.3d 903 (1997). In the instant case, service of process has not yet issued, so it is unclear whether the alleged receipt date will be disputed.